

FCC MAIL SECTION

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MAR 21 1 30 PM '95

MM Docket No. 94-143

In the Matter of

Amendment of Section 73.606(b),  
Table of Allotments,  
Television Broadcast Stations.  
(Albion, Nebraska)

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: March 13, 1995;

Released: March 21, 1995

By the Chief, Allocations Branch:

1. The Commission has before it the *Notice of Proposed Rule Making* in this proceeding, 9 FCC Rcd 7315 (1994), proposing the allotment of UHF Channel 24 to Albion, Nebraska, in order to permit Citadel Communications Co., Inc. ("Citadel Communications") to amend its mutually exclusive application (File No. BPCT-930726KH) for Channel 18 at Albion, to specify operation on Channel 24.<sup>1</sup> Busse Broadcasting Corporation ("Busse Broadcasting") filed comments. Citadel Communications filed comments supporting this proposal and reply comments. For the reasons discussed below, we are allotting UHF Channel 24+ to Albion, Nebraska.

**BACKGROUND**

2. Citadel Communications is the licensee of television Station KCAN, Channel 8, Albion, Nebraska.<sup>2</sup> In *Albion, Lincoln and Columbus, Nebraska*, 6 FCC Rcd 2876 (1993), *recons. pending*, we substituted UHF Channel 18 for VHF Channel 8 at Albion, allotted VHF Channel 8 to Lincoln, and modified the Citadel Communications Station KCAN license to specify Lincoln as the community of license. That action was specifically conditioned on the pledge of Citadel Communications to file an application for Channel

18 in Albion and operate it as a satellite of Station KCAU, thereby maintaining the availability of ABC network service in Albion.

3. Fant Broadcasting of Nebraska, Inc. filed a competing application for the Channel 18 allotment in Albion proposing a full-service facility (File No. BPCT-931115KF). Because of developments related to our comparative licensing procedures, we are currently unable to designate these applications for a comparative hearing or otherwise resolve these mutually exclusive applications. See *Bechtel v. Federal Communications Commission*, 10 F3d 875 (D.C. Cir. 1993). Accordingly, in order to facilitate resolution of this impasse, we issued the *Notice of Proposed Rule Making* proposing to add Channel 24+ at Albion.

4. In response to the *Notice*, Busse Broadcasting, licensee of Station KOLN-TV, Lincoln, Nebraska, filed comments. In its comments, Busse Broadcasting argues that there is "no demonstrated demand for additional television service" and that an additional television channel to a community of 1,380 persons in a county of 6,607 persons "makes no economic sense." In addition, Busse Broadcasting refers to the Commission's ongoing proceeding to convert its existing NTSC television transmission system to the Digital Television System.<sup>3</sup> See *Advanced Television Systems, First Report and Order*, 5 FCC Rcd 5627 (1990). In view of the anticipated demand for additional television spectrum, Busse Broadcasting argues that a Channel 24+ allotment to Albion would be a "needless squandering of scarce broadcast spectrum."<sup>4</sup> Neither of these arguments is well taken.

**DISCUSSION**

5. We believe that the public interest would be served by allotting Channel 24+ to Albion, and permitting Citadel Communications to amend its pending application for Channel 18 at Albion to specify operation on Channel 24+ without loss of cut-off protection.<sup>5</sup> This action will resolve the conflict between two mutually exclusive applications and permit the prompt institution of additional television service to Albion as well as facilitate the service gains which prompted our approval of the original Citadel Communications proposal to allot Channel 8 to Lincoln. Busse Broadcasting's argument that the additional allotment of Channel 24+ to Albion makes "no economic sense" raises issues which the Commission has already determined are not relevant in either a licensing or allotment context. See *Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations*, 3 FCC Rcd 638 (1988), *recon. denied*, 4 FCC Rcd 2276 (1989);

<sup>1</sup> The *Notice* also stated that if any interested party expressed a timely interest in a UHF allotment at Albion, we were prepared to allot Channel 40 to accommodate that interest.

<sup>2</sup> Citadel Communications operates Station KCAN in Albion as a satellite of commonly owned television Station KCAU, Channel 9, Sioux City, Iowa. Station KCAU is an ABC network affiliate.

<sup>3</sup> The Digital Television System is also referred to as Advanced Television Service, ATV, High Definition Television or HDTV.

<sup>4</sup> In its comments, Busse Broadcasting also addresses two aspects of our earlier action reallocating Channel 8 to Lincoln and allotting Channel 18 to Albion. First, Busse Broadcasting contends that the decision to allot Channel 18 to Albion should not have been made in order to enable Citadel Communications to continue its ABC network satellite service. Instead, a decision

concerning a Channel 18 allotment should have been made based upon the "traditional allocation criteria" established in *Television Assignments, Sixth Report and Order*, 41 FCC 148 (1952). Second, Busse Broadcasting again argues that additional television service to Lincoln should be achieved by the utilization of one of the two vacant UHF channels allotted to Lincoln. Both of these arguments were considered in *Albion, Lincoln and Columbus, Nebraska, supra*, and are again raised in Petitions for Reconsideration directed against that action. Neither of these arguments is germane with respect to the instant proposal to allot Channel 24+ to Albion, and, therefore, will not be considered in this proceeding.

<sup>5</sup> The reference coordinates for UHF Channel 24+ at Albion, Nebraska, are 41-55-58 and 98-17-23.

*Cheyenne, Wyoming*, 8 FCC Rcd 4473 (1993). Consequently, there is no basis under the current state of Commission precedent for consideration of those issues. In a related context, there is no Commission requirement for Citadel Communications or any other party to demonstrate a "demand" or need for an allotment aside from the already stated willingness of Citadel Communications to apply for the Channel 24+ allotment at Albion and construct the proposed facilities.

6. The allotment of Channel 24+ to Albion will have no adverse impact on a conversion to a Digital Television System. The Commission has recognized that a shortage of broadcast spectrum might exist in major markets if the conversion to the Digital Television System requires more than the 6 MHz currently used by television stations. To meet this concern, the Commission has frozen applications for new stations and requests for new allotments within the minimum co-channel distance of 30 major markets. See *Order, In the Matter of Advanced Television and Their Impact Upon the Existing Television Service*, ("Freeze Order"), 52 Fed. Reg. 28346, published July 29, 1987. The allotment of Channel 24+ to Albion complies with the *Freeze Order* and there is no basis to conclude that this allotment will jeopardize a conversion to a Digital Television System.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 4, 1995, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED with respect to the community listed below, as follows:

Community	Channel Nos.
Albion, Nebraska	18, <sup>6</sup> *21+, 24+

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Robert Hayne, Mass Media Bureau, (202) 776-1654.

#### FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Mass Media Bureau

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<sup>6</sup> Channel 8 was reallocated from Albion to Lincoln, and Channel 18 was allotted to Albion in *Albion, Lincoln, and Columbus, Nebraska, supra*. In view of the fact that Pappas Telecasting of

the Midlands and Busse Broadcasting have filed Petitions for Reconsideration directed to that action, the reallocation of Channel 8 and the allotment of Channel 18 are not final.